

COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND

ROBERT S. WAGNER
President

DION F. GUTHRIE
District A

LANCE C. MILLER
District D

VERONICA "RONI" CHENOWITH
District B

RICHARD C. SLUTZKY
District E

ROBERT G. CASSILLY
District C

CECELIA M. STEPP
District F

NOTIFICATION OF ZONING HEARING EXAMINER'S DECISION

DATE OF DECISION: August 22, 2003
HEARING EXAMINER: Rebecca A. Bryant
RE: Zoning Appeal Case No. 5352
APPLICANTS: George & Bonnie Oakley
LOCATION: 801-803 Magnolia Road, Joppa
REQUEST: Expansion of a non-conforming building

Enclosed is an official copy of the Hearing Examiner's decision relative to the above referenced case.

The Hearing Examiner's decision shall become final **SEPTEMBER 22, 2003**, unless a written request for final argument before the County Council/Board of Appeals is filed by the close of business on that date by the Applicant, Applicant's Attorney, Opponents, People's Counsel, or a person aggrieved who was a party to the proceedings before the Hearing Examiner. In addition, any Board Member, upon written notice to the Council Administrator, may request final argument.

COUNTY COUNCIL OF HARFORD COUNTY

Barbara J. Ruth
Council Administrator

Enclosure

cc: Applicant/Attorney; Opponents/Attorney; Adjoining Property Owners; People's Counsel;
Registered Hearing Attendees; Department of Planning and Zoning; Department of Law



BOARD OF APPEALS CASE NO. 5352

*

BEFORE THE

APPLICANT: George & Bonnie Oakley

*

ZONING HEARING EXAMINER

REQUEST: Expansion of a non-conforming building; 801-803 Magnolia Road, Joppa

*

OF HARFORD COUNTY

*

Hearing Advertised

*

Aegis: 5/21/03 & 5/28/03

HEARING DATE: July 23, 2003

*

Record: 5/23/03 & 5/3/03

* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicants, George Oakley, Jr. and Bonnie Oakley, are requesting a variance, pursuant to Section 267-21 of the Harford County Code, to enlarge an existing garage in an R3 District.

The subject parcel is located at 610-A W. Baker Avenue, Abingdon, Maryland 21009, in the First Election District, and is more particularly identified on Tax Map 65, Grid Number 3D, Parcel 465. The parcel contains 2.12 acres more or less.

The Applicant, George Oakley, Jr., appeared and testified that he is the owner of the subject property, that he had read the Department Planning and Zoning's Staff Report, and that he had no changes or corrections to the information contained in that Report. The witness indicated that his property actually contains two lots, Number 801 and Number 803 both of which front on Magnolia Road (MD Route 152). The lots are improved by a two-story dwelling, a black-top driveway, a detached two-car garage, and the three-bay garage, which is the subject of this application.

Mr. Oakley testified that the subject three bay garage, was the first building constructed on the property, and that it predates the existing dwelling. According to the Applicant, the three bay garage, which was built in 1945, was previously utilized as a commercial facility. The witness stated that he has resided on the property since 1976, and that he rented the property, prior to purchasing it. At present, the garages and surrounding area are used primarily for storage of watercraft and personal items connected with Applicant's hobby of restoring old boats.

Case No. 5352 - George & Bonnie Oakley

According to the Applicant, heavy snowfall during the 2002-2003 winter storms collapsed the rear wall and a portion of the roof of the subject garage. He stated that he wants to not only repair and replace the damaged portion of the building, but also to make it five feet wider, and 30 feet deeper than the existing structure. The purpose of the expansion would be to provide sufficient space in which to store his 43 foot personal boat during the off season, or for repairs.

The witness indicated that he is not asking to create a less restricted or a more intense use of the property, and that the building will be used only for storage of personal items. He agreed with the Department of Planning and Zoning's calculations regarding the gross square footage of the existing building (2307.28 square feet), and the gross square footage of the proposed extension (620 square feet). The witness also testified that the existing building is 14 feet high, and that the only potential change in height of the proposed extension would be caused by creating a peaked roof to prevent future snow damage.

The witness described several photographs designated as Attachment 6 to the Department of Planning and Zoning Staff Report, and stated that all four photographs on the first page of that attachment depict the front of the existing garage. Also shown in those photos is a pile of debris which was removed from the far left bay after it was damaged by last winter's storms. Mr. Oakley next testified that the outside wall of the proposed extension will be 50 to 60 feet from the closest dwelling, which is his personal residence. The next closest dwelling is located a minimum 150 to 200 feet from the proposed extension. He also stated that, in his opinion, the proposed enlargement of the existing garage will have no adverse impact on any neighboring properties. He indicated that he had discussed the subject application with all of his adjacent neighbors, none of whom expressed any opposition to his proposal. He further indicated that the proposed extension will not be visible from any adjacent property.

Mr. Anthony McClune, Manager, Division of Land Use Management for the Department of Planning and Zoning, appeared and testified regarding the findings of fact and recommendations made by that agency. According to the witness, when the nonconforming use was created by the enactment of Harford County Zoning, the existing garage was the only structure on the property, and the building was used for commercial purposes at that time.

Case No. 5352 - George & Bonnie Oakley

Mr. McClune stated that the Department had determined that all provisions of Section 267-21 can be met if the subject application is approved, and that the Department had considered all factors set forth in Section 267-9I of the Harford County Code. According to the witness, the Department of Planning and Zoning also determined that the proposed use would cause no adverse impact to any adjacent properties. Finally, Mr. McClune testified that the proposed expansion would come no closer to Maryland Route 152 than the existing structure, and will therefore cause no impact to traffic on that road. He verified that the Department of Planning and Zoning had recommended approval of the subject request in its June 13, 2003 Staff Report.

No witnesses appeared in opposition to the requested variance.

CONCLUSION

The Applicants, George Oakley, Jr. and Bonnie Oakley, are requesting a variance, pursuant to Section 267- 21, of the Harford County Code, to enlarge an existing garage in an R3 District.

The following is a review of applicable Code sections, and the Hearing Examiner's findings (*in italics*) regarding each Code provision:

Section 267- 21 of the Harford County Code provides:

The Board may authorize the extension or enlargement of a non-conforming use, with or without conditions, provided that:

- A. The proposed extension or enlargement does not change to a less restricted and more intense use.

The existing non-conforming structure is being utilized for storage and personal use. The Hearing Examiner finds that the Applicant does not propose to change the existing use of that structure.

- B. The enlargement or extension does not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the non-conformity.

The existing non-conforming structure is approximately 76 feet long and 30 feet wide (2,307.28 square feet). The proposed expansion will be approximately 25 by 55 square feet (620 square feet). The proposed expansion is less than 50% of the gross square footage in use at the time of the creation of the non-conformity.

Case No. 5352 - George & Bonnie Oakley

- C. The enlargement or extension does not violate the height or coverage regulations for the district.

The Hearing Examiner adopts the Department of Planning and Zoning's findings that the proposed expansion will not violate the height or coverage regulations for the district.

- D. The enlargement or extension would not adversely affect adjacent properties, traffic patterns or the surrounding neighborhood.

The proposed extension will come no closer to Maryland Route 152 than the existing non-conforming structure. In addition, the expansion will create no additional traffic, and the request will therefore not adversely impact traffic along Magnolia Road (Maryland Route 152).

- E. The limitations, guides and standards set forth in Section 267-9I, Limitations, Guides and Standards, are considered by the Board.

The provisions contained in Section 267-9I are discussed infra.

Section 267-9I of the Harford County Code provides:

Limitations, guides and standards. In addition to the specific standards, guidelines and criteria described in this Part 1 and other relevant considerations, the Board shall be guided by the following general considerations. Notwithstanding any of the provisions of this Part 1, the Board shall not approve an application if it finds that the proposed building addition, extension of building or use, use or change of use would adversely affect the public health, safety and general welfare or would result in dangerous traffic conditions or jeopardize the lives or property of people living in the neighborhood. The Board may impose conditions or limitations on any approval, including the posting of performance guaranties, with regard to any of the following:

1. The number of persons living or working in the immediate area.

The Hearing Examiner finds that the request will have no impact on persons living or working in the area of the subject property.

2. Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.

The proposed extension will not adversely affect traffic conditions on MD Route 152.

Case No. 5352 - George & Bonnie Oakley

3. The orderly growth of the neighborhood and community and the fiscal impact on the county.

The non-conforming structure is utilized solely for the personal use of the Applicant, and expansion of that structure will have no impact on the growth of the neighborhood or the community, and will likewise have no fiscal impact on the county.

4. The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.

The repair and extension of the existing structure will not cause any odors, dust, gas, smoke, fumes, vibration, glare or noise.

5. Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.

The repair and expansion of the subject building will have no impact on public facilities, or the County's ability to supply such services.

6. The degree to which the development is consistent with generally accepted engineering and planning principles and practices.

The winter storms of 2003-2003 caused the roof of the existing non-conforming structure to collapse under the weight of heavy snowfall. The Applicant is proposing to restore the damaged portion of the roof and wall, and to extend the building to the rear, to provide storage for his personal 43 foot boat during the off season. The repair of a damaged structure is consistent with generally accepted engineering and planning principles and practices. In addition, the Hearing Examiner accepts the Department of Planning and Zoning's finding that, "[t]he ability to store the boats inside a building should have less impact on the neighborhood than the current outside storage."

7. The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.

Not applicable to the request.

8. The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.

The Hearing Examiner accepts the Department of Planning and Zoning's finding that, "The repair and extension of the building in this case is in keeping with the intent of the Master Plan."

Case No. 5352 - George & Bonnie Oakley

9. The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.

Not applicable to the request.

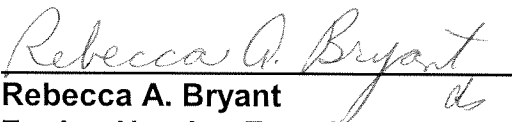
10. The preservation of cultural and historic landmarks.

Not applicable to the request.

Having found that the subject request meets or exceeds all requirements of both Section 267-21 and Section 267-9I, the Hearing Examiner recommends approval of Applicants' request for expansion of a non-conforming use, subject to the following conditions:

1. That the Applicant shall obtain all necessary permits and inspections.
2. That the building shall be used only for the storage of personal items of the property owner or tenant, and not for any commercial purposes.

Date AUGUST 21, 2003


Rebecca A. Bryant
Zoning Hearing Examiner